

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MIREILLE M. LEE,)	
)	
Plaintiff,)	Civil Action No. 3:20-cv-00924
)	
v.)	Judge Richardson
)	Magistrate Judge Frensley
THE VANDERBILT UNIVERSITY,)	
)	JURY DEMAND
Defendant.)	

**DEFENDANT THE VANDERBILT UNIVERSITY’S MOTION TO ENFORCE
PROTECTIVE ORDER AND FOR SANCTIONS PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 37(b)(2)(C)**

The Vanderbilt University (“Vanderbilt” or the “University”), through undersigned counsel, hereby respectfully moves this Court for an order enforcing its Protective Order entered on April 15, 2021 (Dkt. No. 70) (the “Protective Order”) and awarding sanctions under Federal Rule of Civil Procedure 37(b)(2)(C) against Plaintiff for violation of that order.

Plaintiff recently filed a motion for summary judgment, memorandum of law, and statement of material facts in a separate state court case against Vanderbilt including substantial amounts of “Confidential Material” produced in this case pursuant to the Protective Order (including voluminous deposition testimony about Vanderbilt’s confidential tenure process and the views of scholars inside and outside of the University expressed during that process). Dkt. No. 70 at 1. The Protective Order requires that such Confidential Material “shall be used solely for the preparation and prosecution of claims or defenses” in this case, “[u]nless otherwise agreed to in writing by the parties or ordered by this Court.” *Id.* at 2. Although Vanderbilt University has proposed an agreement for Plaintiff to use Confidential Material in the state court case, Plaintiff

has yet to agree, nor does any court order exist allowing Plaintiff to disclose the Confidential Information. Thus, Plaintiff's conduct violates the Protective Order.

Moreover, despite the University's repeated reminders about the confidential nature of the information at issue in this action and the need to address the Protective Order over the last six months, Plaintiff is fighting to keep this information unsealed in her state court action and refusing to acknowledge that the Protective Order in this case has any force and effect on her actions in the state court case.

Therefore, Vanderbilt respectfully requests that the Court: (1) order that Plaintiff comply with the Protective Order, including requiring her immediately to withdraw her motion, memorandum, and statement of facts in the state court case (without prejudice to her refileing it once an appropriate agreement or order is in place); and (2) award the University's reasonable fees and costs in pursuing this relief and in seeking to have the documents sealed in the state court as a sanction for Plaintiff's repeated violations of the Protective Order.

Dated: November 11, 2022

Respectfully submitted,

s/ John W. Borkowski
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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing was filed electronically via the CM/ECF electronic filing system, which forwarded a copy to the following:

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